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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE NEW YORK TIMES COMPANY and	:	
CHARLIE SAVAGE,	:	
	:	18 Civ. 2054 (AT)
Plaintiffs,	:	
	:	
-against-	:	ANSWER
	:	
DEPARTMENT OF JUSTICE,	:	
	:	
Defendant.	:	
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Defendant United States Department of Justice (“DOJ”), by its attorney, Geoffrey S. Berman, United States Attorney for the Southern District of New York, answers the complaint of plaintiffs The New York Times Company and Charlie Savage (“Plaintiffs”), dated March 7, 2018, as follows:

1. Paragraph 1 consists of Plaintiffs’ characterization of this lawsuit, to which no response is required. To the extent a response is required, DOJ denies the allegations contained in paragraph 1 of the complaint, except admits that Plaintiffs seek relief pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

2. DOJ denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint.

3. DOJ denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the complaint.

4. DOJ denies the allegations contained in paragraph 4 of the complaint, except admits that DOJ is an “agency” of the federal government within the meaning of 5 U.S.C. § 552(f).

5. The allegations contained in paragraph 5 of the complaint consist of Plaintiffs’ legal opinions and conclusions regarding jurisdiction, to which no response is required. To the extent a response is required, DOJ denies the allegations contained in paragraph 5 of the complaint.

6. The allegations contained in paragraph 6 of the complaint consist of Plaintiffs’ legal opinions and conclusions regarding venue, to which no response is required. To the extent a response is required, DOJ denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the complaint.

7. The allegations contained in paragraph 7 of the complaint consist of Plaintiffs’ legal opinions and conclusions, to which no response is required. To the extent a response is required, DOJ denies the allegations contained in paragraph 7 of the complaint.

8. DOJ admits that Plaintiffs submitted a FOIA request to DOJ on February 2, 2018, and admits that the quoted language is an accurate quotation of a portion of the February 2, 2018 FOIA request. DOJ respectfully refers the Court to the FOIA request for a complete description of its contents.

9. DOJ admits the allegations contained in paragraph 9 of the complaint.

10. The allegations contained in paragraph 10 of the complaint consist of Plaintiffs' legal opinions and conclusions, to which no response is required. To the extent a response is required, DOJ denies the allegations contained in paragraph 10 of the complaint.

11. DOJ repeats and incorporates by reference each and every response set forth herein to the allegations contained in paragraphs 1 through 10 of the complaint.

12. The allegations contained in paragraph 12 of the complaint consist of Plaintiffs' legal opinions and conclusions, to which no response is required. To the extent a response is required, DOJ denies the allegations contained in paragraph 12 of the complaint, except admits that DOJ is subject to FOIA.

13. The allegations contained in paragraph 13 of the complaint consist of Plaintiffs' legal opinions and conclusions, to which no response is required. To the extent a response is required, DOJ denies the allegations contained in paragraph 13 of the complaint.

14. The allegations contained in paragraph 14 of the complaint consist of Plaintiffs' legal opinions and conclusions, to which no response is required. To the extent a response is required, DOJ denies the allegations contained in paragraph 14 of the complaint.

15. The allegations contained in paragraph 15 of the complaint consist of Plaintiffs' legal opinions and conclusions, to which no response is required. To the extent a response is required, DOJ denies the allegations contained in paragraph 15 of the complaint.

16. Paragraphs 16 through 19 of the complaint consist of Plaintiffs' request for relief, to which no response is required. To the extent a response is required, DOJ denies that Plaintiffs are entitled to the requested relief, or to any relief whatsoever.

17. DOJ denies each and every allegation in the complaint that has not heretofore been specifically admitted, answered, or otherwise responded to.

DEFENSES

FIRST DEFENSE

The Court lacks subject matter jurisdiction over Plaintiffs' requests for relief that exceed the relief authorized by statute under FOIA, 5 U.S.C. § 552.

SECOND DEFENSE

The requested records are exempt, in full or in part, from disclosure. *See* 5 U.S.C. § 552(b).

THIRD DEFENSE

DOJ has exercised due diligence in processing the FOIA Request and exceptional circumstances exist that necessitate additional time for DOJ to complete its processing of the FOIA Request. *See* 5 U.S.C. § 552(a)(6)(C).

FOURTH DEFENSE

DOJ reserves the right to amend this answer to assert any other matter that constitutes an avoidance or affirmative defense under Rule 8(c) of the Federal Rules of Civil Procedure.

WHEREFORE, DOJ respectfully requests that the Court: (1) dismiss the complaint with prejudice; (2) enter judgment in favor of DOJ; and (3) grant such further relief as the Court deems just and proper.

Dated: New York, New York
April 13, 2018

Respectfully submitted,

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